

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANDREW CHARLEY
Box 118, Highway 550
Counselor, NM 87018

Plaintiff

v.

UNION PACIFIC RAILROAD
COMPANY, A DELAWARE
CORPORATION
1400 Douglas Street
Omaha, NE 68179

Defendant

CIVIL ACTION

NO:

JURY TRIAL DEMANDED

COMPLAINT

1. This suit is governed by the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq. which Act grants this Court jurisdiction over this action.
2. Plaintiff, Andrew Charley, is a competent individual residing at the above-captioned address.
3. At all times relevant hereto, the Defendant, Union Pacific Railroad Company was engaged in interstate commerce as a common carrier by rail, operating a line and system of railroads and transacting substantial business throughout the states of Nebraska, New Mexico and other states of the United States.
4. At all times relevant hereto, the Plaintiff was employed by Defendant railroad and was acting in the course and scope of his employment with Defendant, and was engaged in the furtherance of interstate commerce within the meaning of said Act.

5. At all times relevant hereto, the acts of omission and commission causing injuries to the Plaintiff were done by the Defendant, its servants, agents and/or employees acting in the course and scope of their employment with and under the direct and exclusive control of the Defendant.

6. All the property, equipment and operations involved in this occurrence were, at all times relevant hereto, owned and/or under the direct and exclusive control of the Defendant, its agents, servants and/or employees.

7. On or about September 28, 2008, while working in the course and scope of his duties, the Plaintiff, Andrew Charley, was injured when he was struck by the grapple end of a boom truck while working at the Defendant's Columbus Yard facility in Columbus, Nebraska.

8. The aforesaid occurrence was directly and proximately caused in whole or in part by the negligence of the Defendant and/or the negligence of the Defendant's agents, servants and/or employees.

9. As a direct and proximate result of the Defendant's negligence, the Plaintiff has suffered and will continue to suffer: a laceration of the forehead, concussion, fractured right tibia and soft tissue injuries to the shoulders.

10. By reason of the aforesaid injuries, the Plaintiff has been disabled from gainful employment, his earning capacity has been permanently impaired, he has incurred and will continue to incur medical expenses, and he has suffered and will continue to suffer inconvenience, great physical and mental pain and embarrassment.

WHEREFORE, the Plaintiff, Andrew Charley, demands judgment against the

Defendant, Union Pacific Railroad Co., in a sum in excess of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) and the costs of this action.

CAPPELLI MUSTIN

Date: 12/15/09

BY: /s/ Shawn M. Sassaman
SHAWN M. SASSAMAN
Eight Tower Bridge, Suite 1090
161 Washington Street
Conshohocken, PA 19428
(610) 941-4444

BY: /s/Orlando A. Sandoval
ORLANDO A. SANDOVAL
1020 Lomas Blvd., N.W.
Albuquerque, NM 87102
(505) 247-4944